

BEFORE THE IOWA BOARD OF MEDICINE

**

IN THE MATTER OF THE STATEMENT OF CHARGES AGAINST

MARK B. KABINS, M.D., RESPONDENT

FILE No. 02-09-201

**STATEMENT OF CHARGES AND SETTLEMENT AGREEMENT
(Combined)**

COMES NOW the Iowa Board of Medicine (Board), and Mark B. Kabins, M.D., (Respondent), on April 8, 2011, and pursuant to Iowa Code sections 17A.10(2) and 272C.3(4), enter into this combined Statement of Charges and Settlement Agreement to resolve this matter.

STATEMENT OF CHARGES

1. Respondent was issued Iowa medical license no. 26745 on August 10, 1988.
2. Respondent's Iowa medical license is active and will next expire on October 1, 2012.
3. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 147, 148 and 272C.

COUNT I

4. Respondent is charged pursuant to Iowa Code sections 147.55(5), 148.6(2)(b) and 272C.10(5) and 653 IAC 23.1(9) for being convicted of a felony in Nevada.

COUNT II

5. Respondent is charged pursuant to Iowa Code section 148.6(2)(d) with being disciplined by the medical licensing authority of another state.

STATEMENT OF MATTERS ASSERTED

6. Respondent practices orthopedic surgery in Las Vegas, Nevada.

7. On December 30, 2009, Respondent entered into a Plea Agreement in the United States District Court, District of Nevada. Under the terms of the Plea Agreement, Respondent pleaded guilty to one count of Misprison of Felony which the Court described as the failure of Respondent to report an offense committed by others. It was alleged that Respondent became aware of a conspiracy by others to defraud a patient who was paralyzed following spine surgery performed by Respondent, and Respondent failed to properly report the conspiracy to authorities. Respondent was placed on probation for a period of five years, including home detention for a period of six months; he was ordered to perform 250 hours of community service; and he was ordered to pay restitution in the amount of \$3,500,000 and an assessment in the amount of \$100.

8. On December 3, 2010, Respondent entered into a Settlement, Waiver and Consent Agreement with the Nevada State Board of Medical Examiners to resolve pending disciplinary charges for violating the Nevada Medical Practice Act when Respondent pleaded guilty of Misprison of Felony, a violation of 18 U.S.C. Section 4.

Under the terms of the December 3, 2010, Settlement, Waiver and Consent Agreement,
Respondent:

- A. Had his Nevada medical license suspended for a period of six (6) months, the suspension was stayed;
- B. Received a formal written public reprimand;
- C. Was placed on probation by the Nevada State Board of Medical Examiners;
- D. Was ordered to make a donation of \$5,000 to a charity to be mutually agreed upon by the parties;
- E. Completed a twenty-four (24) hour Board-approved ethics course;
- F. Agreed to complete five hundred (500) hours of Board-approved community service; and
- G. Agreed to pay \$7,973.14 to the Nevada State Board of Medical Examiners in investigative and prosecution costs.
- H. The Nevada Board agreed the Nevada consent agreement did not involve facts or circumstances relating to the delivery of health care.

SETTLEMENT AGREEMENT

9. **CITATION AND WARNING:** Respondent is hereby **CITED** for being convicted of a felony in Nevada and for being disciplined by the Nevada State Board of Medical Examiners. Respondent is hereby **WARNED** that such conduct in the future may result in further formal disciplinary action, including suspension or revocation of his Iowa medical license.

10. **CIVIL PENALTY:** Respondent shall pay a **\$10,000** civil penalty. The

civil penalty shall be paid within twenty (20) days of this Order and shall be made payable to the Treasurer of Iowa and mailed to the Executive Director of the Board. The civil penalty shall be deposited into the State General Fund.

11. Respondent voluntarily submits this Order to the Board for consideration.

12. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in Iowa.

13. Respondent understands that by entering into this combined Statement of Charges and Settlement Agreement, Respondent cannot obtain a copy of the investigative file. Pursuant to Iowa Code section 272C.6(4), a copy of the investigative file may only be provided to a licensee after a Statement of Charges is filed but before the final resolution of those charges.

14. In the event Respondent fails to comply with any of the terms of this Order, the Board may initiate action to suspend or revoke Respondent's license or to impose other license discipline as authorized in Iowa Code chapters 148 and 272 and 653 IAC 25.

15. This Order constitutes the resolution of a contested case proceeding.

16. By entering into this Order, Respondent voluntarily waives any rights to a contested case hearing on the allegations in the Statement of Charges, and waives any objections to the terms of this Order.

17. Respondent agrees that the State's counsel may present this Order to the Board.

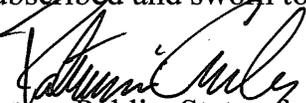
18. This Order is subject to approval of the Board. If the Board fails to approve this Order it shall be of no force or effect to either party.

19. The Board's approval of this Order shall constitute a **Final Order** of the Board.

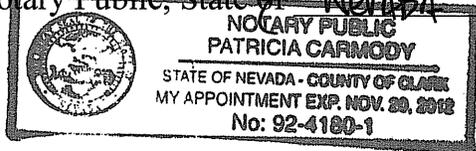


Mark B. Kabins, M.D., Respondent

Subscribed and sworn to before me on March 10, 2011.



Notary Public, State of Nevada



This Order is approved by the Board on April 8, 2011.



Siroos S. Shirazi, M.D., Chairperson
Iowa Board of Medicine
400 SW 8th Street, Suite C
Des Moines, Iowa 50309-4686